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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,407	09/29/2003	Vivian Tempkins	140478	2406
26058	7590	10/20/2004		EXAMINER
MICHAEL C. CESARANO SUNTRUST INTERNATIONAL CENTER, 28TH FLOOR 1 S.E. 3RD AVENUE MIAMI, FL 33131-1714				CHIN, PAUL T
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/605,407	TEMPKINS, VIVIAN <i>SD</i>
	Examiner PAUL T. CHIN	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 September 2003.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/29/2003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on September 29, 2003, was filed and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, the patent 6,223,958 has been crossed out and considered because the reference is not closely related to the application.

### ***Oath/Declaration***

2. It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

It does not include the notary's signature, or the notary's signature is in the wrong place.

### ***Specification***

3. The disclosure is objected to because of the following informalities: the reference number "140" (paragraph 26, lines 3 and 14) should be changed to -- 170 -- (seating channel, see Fig. 5). Appropriate correction is required.

### ***Claim Objections***

4. Claims 1-10 are objected to because of the following informalities: applicant claims "a combination buttonhook and zipper puller", but recites only "a zipper puller". Appropriate correction is required.

### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a partial circumference of not more than 190 degrees" (claim 8) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant recites "the first strand" which forms "an arcuate surface having a partial circumference of not more than approximately 190 degrees" (not shown) (claim 8, lines 3-5), but applicant fails to disclose in the specification. It is unclear as to the exact location of the circumference having 190 degree.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The exact meanings of the phrases "*said periphery of said elongated portion being formed of two corresponding and opposing strands*" (claim 1) and "*said elongated portion having a periphery being formed by two segments of a filament*" (claim 10) are not clearly understood. Applicant first defines "an elongated having a periphery" and later recites that "*the periphery of said elongated portion being formed of two corresponding and opposing strands*". It is pointed out that the claimed language is misleading because the "two corresponding and opposing strands" do not *completely* form a "periphery" as originally defined. Figures 1-4 show that there is a gap between the two opposing strands. The meanings of the word "periphery" are defined as "a line that forms the boundary of an area; a perimeter (see synonyms at circumference); the surface of a solid; the outermost part or region within a precise boundary, or a zone constituting an imprecise boundary" according to *The American Heritage® Dictionary of the English Language, Third Edition*. Moreover, there is no antecedent basis for "said end portion" (claim 1, last line). Applicant only defines "the end of a longer strand". Further, the exact meaning of the claimed phase "a partial circumference of not more than 190 degrees" (claim 8) is not clearly understood. Figure 5 show a strand having different circumferences along the length and it is unclear where the structural dimension is located.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1,2, 4-8 and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Colicher (Des. 420,938).

Colicher (Des. 420,938) discloses a zipper puller comprising a grasp ring ((Fig. 1), an elongated member having two opposing strands wherein one being shorter in length and the strands are releasably joined at each distal end.

Re claim 4, Colicher's zipper puller (Des. 420,938) further shows internal supporting members (see Figs. 3 and 4).

Re claim 8, Colicher's zipper puller (Des. 420,938), as best understood, substantially shows that a longer strand having an arcuate surface (Figs. 1 and 2) having a partial circumference not more approximately 190 degrees at it distal end.

12. Claims 1-5 and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Uhry (389,863).

Uhry (389,863) discloses a zipper puller comprising a grasp ring (a) (Fig. 1) further having a holder (a2), an elongated member having two opposing strands (see Fig. 2) wherein one strand being shorter (b) in length and the two strands are releasably and substantially joined.

Re claim 3, Uhry (389,863) shows an oval shaped grasp ring.

13. Claim 10, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Fox (6,240,604).

Fox (6,240,604) discloses a zipper puller comprising a resilient grasp portion (20) (Fig. 1), an elongated member (22) having two opposing strands (26a, 26b) releasably joined.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 3, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Colicher (Des. 420,938).

Colicher (Des. 420,938), as presented in section 11 above, does not show an oval shaped ring. However, it would have been obvious design choice to provide an oval shaped ring (instead of circular shape) on the Colicher's zipper puller (Des. 420,938) to provide an alternative ring.

***Allowable Subject Matter***

16. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

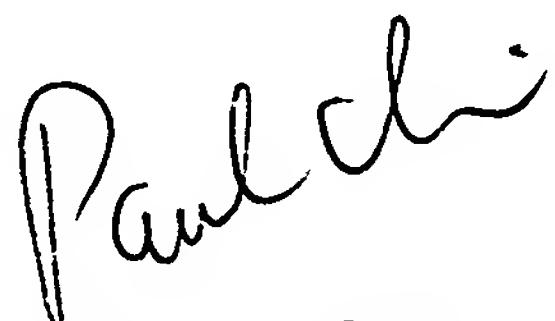
***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PAUL T. CHIN  
Examiner  
Art Unit 3652